

1 AMENDMENT TO HOUSE BILL 1815

2 AMENDMENT NO. _____. Amend House Bill 1815, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Petroleum Equipment Contractors Licensing Act.

7 Section 5. Definitions. For the purposes of this Act:

8 "Board" means the Petroleum Equipment Contractors
9 Advisory Board.

10 "Employee" means a licensee or a person who is currently
11 employed by a contractor licensed under this Act whose full
12 or part-time duties include installing, repairing, or
13 removing underground storage tanks.

14 "Person" means a natural person or any company,
15 corporation, or other business entity.

16 "Petroleum equipment contractor" means a person, company,
17 or corporation that installs, repairs, or removes underground
18 storage tanks.

19 Section 10. Licensure requirement; injunction.
20 Beginning 6 months after the effective date of this Act, no
21 person, firm, association, or corporation shall act as a

1 petroleum equipment contractor or employee, advertise or
2 assume to act as a petroleum equipment contractor or
3 employee, or use any title implying that the person, firm,
4 association, or corporation is engaged in such practice or
5 occupation, unless licensed by the State Fire Marshal.

6 The State Fire Marshal, in the name of the People,
7 through the Attorney General, the State's Attorney of any
8 county, any resident of the State, or any legal entity within
9 the State may apply for injunctive relief in any court to
10 enjoin a person who has not been issued a license or whose
11 license has been suspended, revoked, or not renewed, from
12 practicing as a petroleum equipment contractor, and, upon the
13 filing of a verified petition, the court, if satisfied by
14 affidavit or otherwise that the person is or has been
15 practicing in violation of this Act, may enter a temporary
16 restraining order or preliminary injunction, without bond,
17 enjoining the defendant from further activity. A copy of the
18 verified complaint shall be served upon the defendant and the
19 proceedings shall be conducted as in other civil cases. If
20 it is established that the defendant has been, or is
21 practicing in violation of this Act, the court may enter a
22 judgment perpetually enjoining the defendant from any further
23 unlicensed activity. In the case of violation of any
24 injunctive order or judgment entered under the provisions of
25 this Section, the court may summarily try and punish the
26 offender for contempt of court. Such injunctive proceeding
27 shall be in addition to all penalties and other remedies in
28 this Act.

29 Section 15. Deposit of fees. All fees collected
30 pursuant to this Act shall be deposited into the Fire
31 Prevention Fund.

32 Section 25. Rules; report. The State Fire Marshal shall

1 promulgate rules consistent with the provisions of this Act
2 for the administration and enforcement of this Act and may
3 prescribe forms that shall be issued in connection with the
4 rules promulgated under this Act. The rules shall include
5 standards and criteria for registration, professional
6 conduct, and discipline.

7 Section 30. Investigators. The State Fire Marshal may
8 employ, in conformity with the Personnel Code, the
9 professional, technical, investigative, or clerical help that
10 may be necessary for the enforcement of this Act. Each
11 investigator shall have a minimum of 2 years investigative
12 experience out of the preceding 5 years.

13 An investigator may not hold an active license issued
14 pursuant to this Act or have any fiduciary interest in any
15 business licensed under this Act. This prohibition does not
16 prohibit the investigator from holding stock in a publicly
17 traded business licensed or regulated under this Act,
18 provided that the investigator does not hold more than 5% of
19 the stock of the business.

20 Section 35. Licensure qualifications and fees.

21 (a) Applicants for a license must submit to the Office
22 all of the following:

23 (1) fees as established by the Office;

24 (2) evidence of registration as an Illinois
25 corporation or evidence of compliance with the Assumed
26 Business Name Act;

27 (3) evidence of financial responsibility in a
28 minimum amount of \$1,000,000 through liability insurance,
29 self-insurance, group insurance, group self-insurance, or
30 risk retention groups that must include completed
31 operations and environmental impairment; and

32 (4) evidence of compliance with the qualifications

1 and standards established by the Office.

2 (b) The contractor must possess a license from the
3 Office to perform the following types of activity:

4 (1) installation of underground storage tanks;

5 (2) repair of USTs, which shall include
6 retrofitting and installation of cathodic protection
7 systems;

8 (3) decommissioning of USTs including abandonment
9 in place;

10 (4) relining of USTs;

11 (5) tank and piping tightness testing;

12 (6) testing of cathodic protection systems; and

13 (7) any other category established by the Office of
14 the State Fire Marshal.

15 (c) The Office of the Fire Marshal shall adopt rules
16 outlining the minimum amount of training required for
17 personnel engaged in Underground Storage Tank activity
18 regulated under this Act.

19 Section 40. Application. Each application for a license
20 to practice under this Act shall be in writing and signed by
21 the applicant on forms provided by the Office of the State
22 Fire Marshal.

23 Section 45. Issuance of license; renewal.

24 (a) The State Fire Marshal shall, upon the applicant's
25 satisfactory completion of the requirements authorized under
26 this Act, and upon receipt of the requisite fees, issue the
27 appropriate license and wallet card showing the name and
28 business location of the licensee, the dates of issuance and
29 expiration, and shall contain a photograph of the licensee
30 provided to the State Fire Marshal.

31 (b) Each licensee may apply for renewal of his or her
32 license upon payment of the \$200 fee. The expiration date

1 and renewal period for each license issued under this Act
2 shall be set by rule. Failure to renew within 60 days of the
3 date shall cause the license to lapse. A lapsed license may
4 not be reinstated until a written application is filed, the
5 renewal fee is paid, and a \$50 reinstatement fee is paid.
6 The renewal and reinstatement fees shall be waived for
7 persons who did not renew while on active duty in the
8 military and who file for renewal or restoration within one
9 year after discharge from the active duty service.

10 (c) All fees paid pursuant to this Act are
11 non-refundable.

12 Section 50. Returned checks. Any person who on 2
13 occasions issues or delivers a check or other order to the
14 State Fire Marshal that is not honored by the financial
15 institution upon which it is drawn because of insufficient
16 funds in his or her account, shall pay to the State Fire
17 Marshal, in addition to the amount owing upon the check or
18 other order, a fee of \$50. If the check or other order was
19 issued or delivered in payment of a renewal fee and the
20 licensee whose license has lapsed continues to practice
21 without paying the renewal fee and the \$50 fee required under
22 this Section, an additional fee of \$100 shall be imposed for
23 practicing without a current license. The State Fire Marshal
24 shall notify the licensee whose license has lapsed within 30
25 days after the discovery by the State Fire Marshal that the
26 licensee is practicing without a current license, that the
27 person is acting as a petroleum equipment contractor or
28 employee, as the case may be, without a license, and the
29 amount due to the State Fire Marshal, which shall include the
30 lapsed renewal fee and all other fees required by this
31 Section. If after the expiration of 30 days from the date of
32 such notification, the licensee whose license has lapsed
33 seeks a current license, he or she shall apply to the State

1 Fire Marshal for reinstatement of the license and pay all
2 fees due to the State Fire Marshal. The State Fire Marshal
3 may establish a fee for the processing of an application for
4 reinstatement of a license that allows the State Fire Marshal
5 to pay all costs and expenses incident to the processing of
6 this application. The State Fire Marshal may waive the fees
7 due under this Section in individual cases where he or she
8 finds that the fees would be unreasonable or unnecessarily
9 burdensome.

10 Section 60. License renewal; display of license;
11 inspection.

12 (a) As a condition of renewal of a license, the State
13 Fire Marshal may require the licensee to report information
14 pertaining to his or her practice that the State Fire Marshal
15 determines to be in the interest of public safety.

16 (b) A licensee shall report a change in home or office
17 address within 10 days.

18 (c) Each licensee shall prominently display his or her
19 license to practice at each place from which the practice is
20 being performed. If more than one location is used, branch
21 office certificates shall be issued upon payment of the fees
22 to be established by the State Fire Marshal. Each employee
23 shall carry on his or her person a wallet card issued by the
24 State Fire Marshal.

25 (d) If a license or certificate is lost, a duplicate
26 shall be issued upon payment of the required fee to be
27 established by the State Fire Marshal. If a licensee wishes
28 to change his or her name, the State Fire Marshal shall issue
29 a license in the new name upon payment of the required fee
30 and upon receipt of satisfactory proof that the change was
31 done in accordance with law.

32 (e) Each licensee shall permit his or her facilities to
33 be inspected by representatives of the Office of the State

1 Fire Marshal.

2 Section 65. Disciplinary actions. Licensees shall be
3 subject to disciplinary action for any of the following:

4 (1) obtaining or renewing a license by the use of
5 fraud or material deception;

6 (2) being professionally incompetent as manifested
7 by poor standards of service;

8 (3) engaging in dishonorable, unethical, or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public in the course of professional
11 services or activities;

12 (4) being convicted of a crime that has a
13 substantial relationship to his or her practice or an
14 essential element of which is misstatement, fraud, or
15 dishonesty, being convicted in this or another state of
16 any crime that is a felony under the laws of Illinois or
17 of that state, or being convicted of a felony in a
18 federal court, unless the licensee demonstrates that he
19 or she has been sufficiently rehabilitated to warrant the
20 public trust;

21 (5) performing any service in a grossly negligent
22 manner or permitting any licensed employee to perform
23 services in a grossly negligent manner, regardless of
24 whether actual damage or damage to the public is
25 established;

26 (6) being habitual drunk or having a habitual
27 addiction to the use of morphine, cocaine, controlled
28 substances, or other habit-forming drugs;

29 (7) willfully receiving compensation, directly or
30 indirectly, for any professional service not actually
31 rendered;

32 (8) having disciplinary action taken against his or
33 her license in another State;

1 (9) contracting or assisting unlicensed persons to
2 perform services for which a license is required under
3 this Act;

4 (10) permitting the use of his or her license to
5 enable an unlicensed person or agency to operate as a
6 licensee;

7 (11) performing and charging for services without
8 having authorization to do so from the member of the
9 public being served; or

10 (12) failing to comply with any provision of this
11 Act or the rules adopted under this Act.

12 Section 70. Complaints. All complaints concerning
13 violations regarding licensees or unlicensed activity shall
14 be received and logged by the State Fire Marshal and reported
15 to the Board.

16 Section 75. Formal charges; hearings.

17 (a) Following the investigative process, the State Fire
18 Marshal may file formal charges against the licensee. The
19 formal charges shall, at a minimum, inform the licensee of
20 the facts that comprise the basis of the charge and that are
21 specific enough to enable the licensee to defend himself or
22 herself.

23 (b) Each licensee whose conduct is the subject of a
24 formal charge that seeks to impose disciplinary action
25 against the licensee shall be served notice of the formal
26 charge at least 30 days before the date of the hearing, which
27 shall be presided over by a hearing officer authorized by the
28 State Fire Marshal. Service shall be considered to have been
29 given if the notice was personally received by the licensee
30 or if the notice was sent by certified mail, return receipt
31 requested, to the licensee at the licensee's last known
32 address as listed with the State Fire Marshal.

1 (c) The notice of formal charges shall inform the
2 licensee (i) of the time, date, and place of the hearing;
3 (ii) that the licensee shall appear personally at the hearing
4 and may be represented by counsel; (iii) that the licensee
5 shall have the right to produce witnesses and evidence in his
6 or her behalf and shall have the right to cross-examine
7 witnesses and examine evidence produced against him or her;
8 (iv) that the hearing could result in disciplinary action
9 being taken against his or her license; (v) that rules for
10 the conduct of these hearings exist and it may be in the
11 licensee's best interest to obtain a copy; (vi) that a
12 hearing officer authorized by the State Fire Marshal shall
13 preside at the hearing and following the conclusion of the
14 hearing shall make findings of fact, conclusions of law, and
15 recommendations to the State Fire Marshal as to what
16 disciplinary action, if any, should be imposed on the
17 licensee; and (vii) that the State Fire Marshal may continue
18 the hearing.

19 (d) The hearing officer authorized by the State Fire
20 Marshal shall hear the evidence produced in support of the
21 formal charges and any contrary evidence produced by the
22 licensee. At the conclusion of the hearing, the hearing
23 officer shall make findings of fact, conclusions of law, and
24 recommendations and submit them to the State Fire Marshal and
25 to all parties to the proceeding. Submission to the licensee
26 shall be considered as having been made if done in a similar
27 fashion as service of the notice of formal charges. Within
28 20 days after such service, any party to the proceeding may
29 present to the State Fire Marshal a motion, in writing, for a
30 rehearing that specifies the grounds for rehearing.

31 (e) The State Fire Marshal, following the time allowed
32 for filing a motion for rehearing, shall review the hearing
33 officer's findings of fact, conclusions of law, and
34 recommendations and any motions filed subsequent to the

1 findings, conclusions, and recommendations. After reviewing
2 this information, the State Fire Marshal may hear oral
3 arguments, prior to issuing an order. The report of findings
4 of fact, conclusions of law, and recommendations of the
5 hearing officer shall be the basis for the State Fire
6 Marshal's order.

7 If the State Fire Marshal finds that substantial justice
8 was not done, he or she may issue an order in contravention
9 to the findings of fact, conclusions of law, and
10 recommendations of the hearing officer. The State Fire
11 Marshal shall provide the Board with written explanation of
12 any such deviation, and shall specify with particularity the
13 reasons for the action. The finding is not admissible in
14 evidence against the person in a criminal prosecution brought
15 for the violation of this Act.

16 (f) All proceedings pursuant to this Section are matters
17 of public record and shall be preserved.

18 Section 80. Sanctions.

19 (a) The State Fire Marshal shall impose any of the
20 following sanctions, singly or in combination, when he or she
21 finds that a licensee is guilty of any offense described in
22 Section 65:

- 23 (1) revocation;
- 24 (2) suspension for any period of time;
- 25 (3) reprimand or censure;
- 26 (4) placement on probationary status and
27 requirement that the licensee submit of any of the
28 following:

29 (A) report regularly to the Board or State
30 Fire Marshal upon matters that are the basis of the
31 probation;

32 (B) continue or renew professional education
33 until a satisfactory degree of skill has been

1 attained in those areas that are the basis of the
2 probation; or

3 (C) any other reasonable requirements or
4 restrictions as are proper;

5 (5) refusal to issue, renew, or restore; or

6 (6) revocation of probation that has been granted
7 and imposition of any other discipline in this subsection

8 (a) when the requirements of probation have not been
9 fulfilled or have been violated.

10 (b) The State Fire Marshal may summarily suspend a
11 license under this Act, without a hearing, simultaneously
12 with the filing of a formal complaint and notice for a
13 hearing, if the State Fire Marshal finds that the continued
14 operations of the individual would constitute an immediate
15 danger to the public. In the event the State Fire Marshal
16 suspends a license under this subsection, a hearing by the
17 hearing officer designated by the State Fire Marshal shall be
18 held within 20 days after the suspension begins, unless
19 continued at the request of the licensee.

20 (c) Disposition may be made of any formal complaint by
21 consent order between the State Fire Marshal and the
22 licensee, but the Board must be apprised of the full consent
23 order in a timely way.

24 (d) The State Fire Marshal shall reinstate a license to
25 good standing under this Act, upon recommendation to the
26 State Fire Marshal, after a hearing before the hearing
27 officer authorized by the State Fire Marshal. The State Fire
28 Marshal shall be satisfied that the applicant's renewed
29 practice is not contrary to the public interest.

30 (e) The State Fire Marshal may conduct hearings and
31 issue cease and desist orders to persons who engage in
32 activities prohibited by this Act without having a valid
33 license, certificate, or registration. Any person in
34 violation of a cease and desist order entered by the State

1 Fire Marshal shall be subject to all of the remedies provided
2 by law and, in addition, shall be subject to a civil penalty
3 payable to the party injured by the violation.

4 (f) The State Fire Marshal shall seek to achieve
5 consistency in the application of the foregoing sanctions and
6 consent orders and significant departure from prior decisions
7 involving similar conduct shall be explained in the State
8 Fire Marshal's orders.

9 (g) Upon the suspension or revocation of a license
10 issued under this Act, a licensee shall surrender the license
11 to the State Fire Marshal and, upon failure to do so, the
12 State Fire Marshal shall seize the same.

13 (g-5) Any person, business, or corporation whose license
14 has been revoked under the provisions of this Act is
15 prohibited, for a period of 2 years from the date of
16 revocation, from owning more than 7 1/2% of a business or
17 corporation licensed under this Act.

18 (h) The State Fire Marshal may refuse to issue or may
19 suspend the license of any person who fails to file a return,
20 to pay the tax, penalty, or interest shown in a filed return,
21 or to pay any final assessment of tax, penalty, or interest,
22 as required by any tax Act administered by the Illinois
23 Department of Revenue, until the time that the requirements
24 of any such tax Act are satisfied.

25 Section 85. Depositions; witnesses; judicial review.

26 (a) The State Fire Marshal has the power to subpoena and
27 bring before him or her any person in this State and to take
28 testimony either orally or by deposition, or both, with the
29 same fees and mileage and in the same manner as is prescribed
30 by law for judicial proceedings in civil cases. The State
31 Fire Marshal and the hearing officer approved by the State
32 Fire Marshal have the power to administer oaths at any
33 hearing that the State Fire Marshal is authorized to conduct.

1 (b) A circuit court, upon the application of the
2 licensee or the State Fire Marshal, may order the attendance
3 of witnesses and the production of relevant books and papers
4 in any hearing conducted pursuant to this Act. The court may
5 compel obedience to its order by proceedings for contempt.

6 (c) The State Fire Marshal, at the Office's expense,
7 shall provide a stenographer or a mechanical recording
8 device to record the testimony and preserve a record of all
9 proceedings at the hearing of any case wherein a license may
10 be revoked, suspended, placed on probationary status, or
11 other disciplinary action taken with regard to the license.
12 The notice of hearing, the complaint, and all other documents
13 in the nature of pleadings and written motions filed in the
14 proceedings, the transcript of testimony, the report of the
15 hearing officer, and the orders of the State Fire Marshal
16 constitute the record of the proceedings. The State Fire
17 Marshal shall furnish a transcript of the record to any
18 interested person upon payment of the costs of copying and
19 transmitting the record.

20 (d) All final administrative decisions of the State Fire
21 Marshal are subject to judicial review pursuant to the
22 provisions of the Administrative Review Law and the rules
23 adopted pursuant thereto. Proceedings for judicial review
24 shall be commenced in the Circuit Court of the county in
25 which the party applying for review resides. If party
26 applying for review is not a resident of Illinois, the venue
27 shall be in Sangamon County. The State Fire Marshal shall not
28 be required to certify any record to the court, file any
29 answer in court, or otherwise appear in any court in a
30 judicial review proceeding, unless there is filed in the
31 court with the complaint a receipt from the State Fire
32 Marshal acknowledging payment of the costs of furnishing and
33 certifying the record, which costs shall be computed at the
34 cost of preparing such record. Exhibits shall be certified

1 without cost. Failure on the part of the licensee to file
2 the receipt in court shall be grounds for dismissal of the
3 action.

4 During all judicial proceedings incident to disciplinary
5 action, the sanctions imposed upon the accused by the State
6 Fire Marshal shall remain in effect, unless the court feels
7 justice requires a stay of the order.

8 Section 90. Order; prima facie proof. An order or a
9 certified copy of an order, bearing the seal of the State
10 Fire Marshal and purporting to be signed by the State Fire
11 Marshal, is prima facie proof that:

12 (1) the signature is that of the State Fire
13 Marshal;

14 (2) the State Fire Marshal is qualified to act; and

15 (3) the hearing officer is qualified to act on
16 behalf of the State Fire Marshal.

17 Such proof may be rebutted.

18 Section 95. Publication of records. The State Fire
19 Marshal shall, upon request, publish a list of the names and
20 addresses of all licensees under the provisions of this Act.
21 The State Fire Marshal shall publish an annual list of all
22 persons whose licenses have been disciplined within the prior
23 year and a quarterly list of each individual who was denied
24 employment status because of a criminal history, together
25 with any other information as the State Fire Marshal may deem
26 of interest to the public.

27 Section 100. Criminal penalties. A person who violates
28 any of the provisions of this Act shall be guilty of a Class
29 A misdemeanor for the first offense and shall be guilty of a
30 Class 4 felony for a second or subsequent offense.

1 Section 105. Home rule. The regulation and licensing of
 2 petroleum equipment contractors are exclusive powers and
 3 functions of the State. A home rule unit may not regulate or
 4 license petroleum equipment contractors. This Section is a
 5 denial and limitation of home rule powers and functions under
 6 subsection (h) of Section 6 of Article VII of the Illinois
 7 Constitution.

8 Section 900. The Regulatory Sunset Act is amended by
 9 adding Section 4.22 as follows:

10 (5 ILCS 80/4.22 new)

11 Sec. 4.22. Act repealed on January 1, 2012. The
 12 following Act is repealed on January 1, 2012:

13 The Petroleum Equipment Contractors Licensing Act.

14 Section 905. The Gasoline Storage Act is amended by
 15 changing Sections 2 and 7 as follows:

16 (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

17 Sec. 2. Jurisdiction; regulation of tanks.

18 (1) (a) Except as otherwise provided in this Act, the
 19 jurisdiction of the Office of the State Fire Marshal under
 20 this Act shall be concurrent with that of municipalities and
 21 other political subdivisions. The Office of the State Fire
 22 Marshal has power to promulgate, pursuant to the Illinois
 23 Administrative Procedure Act, reasonable rules and
 24 regulations governing the keeping, storage, transportation,
 25 sale or use of gasoline and volatile oils, ~~including rules~~
 26 ~~requiring that underground storage tank contractors file a~~
 27 ~~bond or a certificate of insurance with the State Fire~~
 28 ~~Marshal, and rules governing the dismantling of abandoned~~
 29 ~~bulk storage plants.~~ Nothing in this Act shall relieve any
 30 person, corporation, or other entity from complying with any

1 zoning ordinance of a municipality or home rule unit enacted
2 pursuant to Section 11-13-1 of the Illinois Municipal Code or
3 any ordinance enacted pursuant to Section 11-8-4 of the
4 Illinois Municipal Code.

5 (b) The rulemaking power shall include the power to
6 promulgate rules providing for the issuance and revocation of
7 permits allowing the self service dispensing of motor fuels
8 as such term is defined in the Motor Fuel Tax Law in retail
9 service stations or any other place of business where motor
10 fuels are dispensed into the fuel tanks of motor vehicles,
11 internal combustion engines or portable containers. Such
12 rules shall specify the requirements that must be met both
13 prior and subsequent to the issuance of such permits in order
14 to insure the safety and welfare of the general public. The
15 operation of such service stations without a permit shall be
16 unlawful. The Office of the State Fire Marshal shall revoke
17 such permit if the self service operation of such a service
18 station is found to pose a significant risk to the safety and
19 welfare of the general public.

20 (c) However, except in any county with a population of
21 1,000,000 or more, the Office of the State Fire Marshal shall
22 not have the authority to prohibit the operation of a service
23 station solely on the basis that it is an unattended
24 self-service station which utilizes key or card operated
25 self-service motor fuel dispensing devices. Nothing in this
26 paragraph shall prohibit the Office of the State Fire Marshal
27 from adopting reasonable rules and regulations governing the
28 safety of self-service motor fuel dispensing devices.

29 (d) The State Fire Marshal shall not prohibit the
30 dispensing or delivery of flammable or combustible motor
31 vehicle fuels directly into the fuel tanks of vehicles from
32 tank trucks, tank wagons, or other portable tanks. The State
33 Fire Marshal shall adopt rules (i) for the issuance of
34 permits for the dispensing of motor vehicle fuels in the

1 manner described in this paragraph (d), (ii) that establish
2 fees for permits and inspections, and provide for those fees
3 to be deposited into the Fire Prevention Fund, (iii) that
4 require the dispensing of motor fuel in the manner described
5 in this paragraph (d) to meet conditions consistent with
6 nationally recognized standards such as those of the
7 National Fire Protection Association, and (iv) that restrict
8 the dispensing of motor vehicle fuels in the manner described
9 in this paragraph (d) to the following:

10 (A) agriculture sites for agricultural purposes,

11 (B) construction sites for refueling construction
12 equipment used at the construction site,

13 (C) sites used for the parking, operation, or
14 maintenance of a commercial vehicle fleet, but only if
15 the site is located in a county with 3,000,000 or more
16 inhabitants or a county contiguous to a county with
17 3,000,000 or more inhabitants and the site is not
18 normally accessible to the public, and

19 (D) sites used for the refueling of police, fire,
20 or emergency medical services vehicles or other vehicles
21 that are owned, leased, or operated by (or operated under
22 contract with) the State, a unit of local government, or
23 a school district, or any agency of the State and that
24 are not normally accessible to the public.

25 (2) (a) The Office of the State Fire Marshal shall adopt
26 rules and regulations regarding underground storage tanks and
27 associated piping and no municipality or other political
28 subdivision shall adopt or enforce any ordinances or
29 regulations regarding such underground tanks and piping other
30 than those which are identical to the rules and regulations
31 of the Office of the State Fire Marshal. It is declared to
32 be the law of this State, pursuant to paragraphs (h) and (i)
33 of Section 6 of Article VII of the Illinois Constitution,
34 that the establishment and enforcement of standards regarding

1 underground storage tanks and associated piping within the
2 jurisdiction of the Office of the State Fire Marshal is an
3 exclusive State function which may not be exercised
4 concurrently by a home rule unit except as expressly
5 permitted in this Act.

6 (b) The Office of the State Fire Marshal may enter into
7 written contracts with municipalities of over 500,000 in
8 population to enforce the rules and regulations adopted under
9 this subsection.

10 (3) (a) The Office of the State Fire Marshal shall have
11 authority over underground storage tanks which contain, have
12 contained, or are designed to contain petroleum, hazardous
13 substances and regulated substances as those terms are used
14 in Subtitle I of the Hazardous and Solid Waste Amendments of
15 1984 (P.L. 98-616), as amended by the Superfund Amendments
16 and Reauthorization Act of 1986 (P.L. 99-499). The Office
17 shall have the power with regard to underground storage tanks
18 to require any person who tests, installs, repairs, replaces,
19 relines, or removes any underground storage tank system
20 containing, formerly containing, or which is designed to
21 contain petroleum or other regulated substances ~~to--be~~
22 ~~certified--to--perform--that--activity,~~ to obtain a permit to
23 install, repair, replace, reline, or remove the particular
24 tank system, ~~to-pay-an-annual-certification-fee-of-\$100-per~~
25 ~~year,~~ and to pay a fee set by the Office of \$100-per-site for
26 a permit to install, repair, replace, reline, upgrade, test,
27 or remove any portion of an underground storage tank system.
28 All persons who do repairs above grade level for themselves
29 need not pay a fee or be certified. All fees received by the
30 Office from certification and permits shall be deposited in
31 the Fire Prevention Fund for the exclusive use of the Office
32 in administering the Underground Storage Tank program.

33 (b) (i) Within 120 days after the promulgation of
34 regulations or amendments thereto by the Administrator of the

1 United States Environmental Protection Agency to implement
2 Section 9003 of Subtitle I of the Hazardous and Solid Waste
3 Amendments of 1984 (P.L. 98-616) of the Resource Conservation
4 and Recovery Act of 1976 (P.L. 95-580), as amended, the
5 Office of the State Fire Marshal shall adopt regulations or
6 amendments thereto which are identical in substance. The
7 rulemaking provisions of Section 5-35 of the Illinois
8 Administrative Procedure Act shall not apply to regulations
9 or amendments thereto adopted pursuant to this subparagraph
10 (i).

11 (ii) The Office of the State Fire Marshal may adopt
12 additional regulations relating to an underground storage
13 tank program that are not inconsistent with and at least as
14 stringent as Section 9003 of Subtitle I of the Hazardous and
15 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource
16 Conservation and Recovery Act of 1976 (P.L. 94-580), as
17 amended, or regulations adopted thereunder. Except as
18 provided otherwise in subparagraph (i) of this paragraph (b),
19 the Office of the State Fire Marshal shall not adopt
20 regulations relating to corrective action at underground
21 storage tanks. Regulations adopted pursuant to this
22 subsection shall be adopted in accordance with the procedures
23 for rulemaking in Section 5-35 of the Illinois Administrative
24 Procedure Act.

25 (c) The Office of the State Fire Marshal shall require
26 any person, corporation or other entity who tests an
27 underground tank or its piping or cathodic protection for
28 ~~another, except a lesser for his or her lessee, to register~~
29 ~~with the Office, and pay an annual registration fee of \$100,~~
30 ~~to be deposited in the Fire Prevention Fund, and~~ to report
31 the results of such test to the Office.

32 (d) In accordance with constitutional limitations, the
33 Office shall have authority to enter at all reasonable times
34 upon any private or public property for the purpose of:

1 (i) Inspecting and investigating to ascertain
2 possible violations of this Act, of regulations
3 thereunder or of permits or terms or conditions thereof;
4 or

5 (ii) In accordance with the provisions of this Act,
6 taking whatever emergency action, that is necessary or
7 appropriate, to assure that the public health or safety
8 is not threatened whenever there is a release or a
9 substantial threat of a release of petroleum or a
10 regulated substance from an underground storage tank.

11 (e) The Office of the State Fire Marshal may issue an
12 Administrative Order to any person who it reasonably believes
13 has violated the rules and regulations governing underground
14 storage tanks, including the installation, repair, leak
15 detection, cathodic protection tank testing, removal or
16 release notification. Such an order shall be served by
17 registered or certified mail or in person. Any person served
18 with such an order may appeal such order by submitting in
19 writing any such appeal to the Office within 10 days of the
20 date of receipt of such order. The Office shall conduct an
21 administrative hearing governed by the Illinois
22 Administrative Procedure Act and enter an order to sustain,
23 modify or revoke such order. Any appeal from such order shall
24 be to the circuit court of the county in which the violation
25 took place and shall be governed by the Administrative Review
26 Law.

27 (f) The Office of the State Fire Marshal shall not
28 require the removal of an underground tank system taken out
29 of operation before January 2, 1974, except in the case in
30 which the office of the State Fire Marshal has determined
31 that a release from the underground tank system poses a
32 current or potential threat to human health and the
33 environment. In that case, and upon receipt of an Order from
34 the Office of the State Fire Marshal, the owner or operator

1 of the nonoperational underground tank system shall assess
2 the excavation zone and close the system in accordance with
3 regulations promulgated by the Office of the State Fire
4 Marshal.

5 (4) (a) The Office of the State Fire Marshal shall adopt
6 rules and regulations regarding aboveground storage tanks and
7 associated piping and no municipality or other political
8 subdivision shall adopt or enforce any ordinances or
9 regulations regarding such aboveground tanks and piping other
10 than those which are identical to the rules and regulations
11 of the Office of the State Fire Marshal unless, in the
12 interest of fire safety, the Office of the State Fire Marshal
13 delegates such authority to municipalities, political
14 subdivisions or home rule units. It is declared to be the
15 law of this State, pursuant to paragraphs (h) and (i) of
16 Section 6 of Article VII of the Illinois Constitution, that
17 the establishment of standards regarding aboveground storage
18 tanks and associated piping within the jurisdiction of the
19 Office of the State Fire Marshal is an exclusive State
20 function which may not be exercised concurrently by a home
21 rule unit except as expressly permitted in this Act.

22 (b) The Office of the State Fire Marshal shall enforce
23 its rules and regulations concerning aboveground storage
24 tanks and associated piping; however, municipalities may
25 enforce any of their zoning ordinances or zoning regulations
26 regarding aboveground tanks. The Office of the State Fire
27 Marshal may issue an administrative order to any owner of an
28 aboveground storage tank and associated piping it reasonably
29 believes to be in violation of such rules and regulations to
30 remedy or remove any such violation. Such an order shall be
31 served by registered or certified mail or in person. Any
32 person served with such an order may appeal such order by
33 submitting in writing any such appeal to the Office within 10
34 days of the date of receipt of such order. The Office shall

1 conduct an administrative hearing governed by the Illinois
 2 Administrative Procedure Act and enter an order to sustain,
 3 modify or revoke such order. Any appeal from such order
 4 shall be to the circuit court of the county in which the
 5 violation took place and shall be governed by the
 6 Administrative Review Law.

7 (Source: P.A. 91-851, eff. 1-1-01.)

8 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

9 Sec. 7. (a) A violation of:

10 (1) paragraph (a) or (b) of subsection (3) of
 11 Section 2 of this Act is a business offense punishable by
 12 a fine of not more than \$10,000 per day;

13 (2) ~~(blank); paragraph (c) of subsection (3) of~~
 14 ~~Section 2 is a petty offense punishable by a fine of not~~
 15 ~~less than \$100 nor more than \$500 per tank tested;~~

16 (3) Section Sections 4 and 5 of this Act is a
 17 business offense punishable by a fine of not more than
 18 \$10,000 per day;

19 (3.5) Section 3.5 of this Act is a business offense
 20 punishable by fine of not more than \$10,000 per offense;

21 (4) an administrative order as described in
 22 paragraph (e) of subsection (3) of Section 2, paragraph
 23 (b) of subsection (4) of Section 2 or subsection (c) of
 24 Section 6 after it has become final is a business offense
 25 punishable by a fine of not less than \$1,000 nor more
 26 than \$25,000 per day;

27 (5) any other rule promulgated by the Office of the
 28 State Fire Marshal is a business offense punishable by a
 29 fine of not less than \$100 nor more than \$1,000 for each
 30 offense or each day of continued violation.

31 (b) (Blank). ~~The State Fire Marshal may suspend or~~
 32 ~~revoke the registration of any person who has violated the~~
 33 ~~rules of the State Fire Marshal after notice and opportunity~~

1 ~~for--an-Administrative-hearing-which-shall-be-governed-by-the~~
2 ~~Illinois-Administrative-Procedure-Act.--Any-appeal-from--such~~
3 ~~suspension-or-revocation-shall-be-to-the-circuit-court-of-the~~
4 ~~county--in--which-the-hearing-was-held-and-be-governed-by-the~~
5 ~~Administrative-Review-Law.~~

6 (c) A civil action to recover such fines may be brought
7 by the Attorney General or the State's Attorney of the county
8 in which the violation occurred.

9 (d) Any monies received by the State under this Section
10 shall be deposited into the Underground Storage Tank Fund.

11 (Source: P.A. 90-662, eff. 7-30-98.)

12 Section 999. Effective date. This Act takes effect upon
13 becoming law."